

Exhibit B

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

INFOGROUP, INC., Delaware corporation;

Case No. 8:14-CV-0049

Plaintiff,

vs.

VINOD GUPTA and
DATABASEUSA.COM LLC, a Nevada
limited-liability company,

Defendants.

**CORRECTED MOTION FOR AWARD OF
ATTORNEY FEES TO PLAINTIFF
INFOGROUP, INC. AND AGAINST
DEFENDANT DATABASEUSA.COM LLC**

Pursuant to Fed. R. Civ. P 54(d)(2), Local Rule 54.3, the Federal Copyright Act, 17 U.S.C. § 505, and the Lanham Act, 15 U.S. Code § 1117, Plaintiff Infogroup Inc. ("Infogroup"), as the prevailing party on the three statutory claims (copyright infringement and violations of the Lanham Act for trademark infringement and false advertisements) (collectively, the "Three Statutory Claims"), that permit recovery of prevailing party attorney fees, hereby applies to the Court for an order taxing attorney fees against Defendant DATABASEUSA.COM LLC and in favor of Infogroup.

Infogroup initially requests an award of attorney fees for the law firms Koley Jessen P.C., L.L.O., Gordon & Rees LLP, Liner LLP, and Kutak Rock LLP, relating to the Three Statutory Claims for which Infogroup prevailed, in the amount of \$1,065,625.25 of the billed and paid fees (\$1,190,625.25 - \$95,615.00 (non-Three Statutory Claims related) - \$29,385.00 (requested in Sanctions (Filing No. 355 at p. 3, ¶ 11)). **Of that total of \$1,065,625.25 which relates to the Three Statutory Claims, \$639,375.15 relates to Infogroup's copyright infringement claims and \$426,250.10 relates to the claims of trademark infringements and the false advertisements.** None of these amounts include costs, and none of these amounts yet include fees from

Alan Sege Esq., PC or Venable LLP, which will be provided by supplementation shortly.

Moreover, if the Court deems appropriate and grants a lodestar increase ONLY to Koley Jessen professionals' hourly rates as recommended and explained in the Declaration of Greg Scaglione and consistent with the factors set forth in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974), which was recognized by this district in *Morales v. Farmland Foods, Inc.*, 2013 WL 1704722 (D. Neb. Apr. 18, 2013), Infogroup requests an award of lodestar attorney fees relating to the Three Statutory Claims for which Infogroup prevailed, in the amount of \$133,148.85 (\$144,775.25 - \$11,626.40 (non-Three Statutory Claims related)), which are the fair and reasonable Chicago-community based fees for services necessarily rendered on behalf of and for the benefit of Infogroup. Of those fees, \$79,889.31 relates to fees for the copyright claims and related misconduct and \$53,259.54 relates to fees for the Lanham Act violations (trademark infringement and false advertising).

PLEASE NOTE that this Motion for Award of Attorney Fees **does not** duplicate or address other pending Motions, namely:

- (i) this Court's Order taxing attorney fees against both Defendants Vinod Gupta and DATABASEUSA.COM, jointly and severally (Filing No. 343 at p. 6-7), but which this Court has the amount to be so awarded under advisement. (Filing No. 343 at 7). That attorney fee award was expressly noted as a pending and submitted matter in the Pretrial Order (Filing No. 415 at p. 31). The Court directed Infogroup to submit an application for fees and costs (Filing No. 343 at p. 7), which Infogroup did (\$29,385.00 in attorney fees is requested in the Affidavit of Gregory C. Scaglione at Filing No. 355 at p. 3, ¶ 11); and
- (ii) Infogroup's Bill of Costs (Filing No. 486) pursuant to Fed. R. Civ. P 54(d)(2)

and Local Rule 54.3.

In support of this Motion, Infogroup offers the Declaration of Gregory C. Scaglione, with exhibits; the Declaration of Laura De Santos, with exhibits; the Declaration of Ryan Hatch, with exhibits; the Declaration of Douglas Peters, with exhibits (with the Declarations of Alan Sege and Ari Rothman, both with exhibits, to be provided via supplementation); and a supporting brief, submitted contemporaneously with this Motion, and asks the Court to take Judicial Notice of the Jury's Verdicts (Filing No. 464) and this Court's various Orders and the Judgment entered in this case.

WHEREFORE, Plaintiff Infogroup Inc., ("Infogroup"), as prevailing plaintiff on the Three Statutory Claims that permit recovery of prevailing party attorney fees, requests an order taxing attorney fees against Defendant DATABASEUSA.COM LLC and in favor of Infogroup as follows:

(i) Infogroup initially requests an award of attorney fees for the law firms Koley Jessen P.C., L.L.O., Gordon & Rees LLP, Liner LLP, and Kutak Rock LLP, relating to the Three Statutory Claims for which Infogroup prevailed, in the amount of \$1,065,625.25 of the billed and paid fees (\$1,190,625.25 - \$95,615 (non-Three Statutory Claims related) - \$29,385.00 (requested in Sanctions (Filing No. 355 at p. 3, ¶ 11)). **Of that total of \$1,065,625.25 which relates to the Three Statutory Claims, \$639,375.15 relates to Infogroup's copyright infringement claims and \$426,250.10 relates to the claims of trademark infringements and the false advertisements.** None of these amounts include costs, and none of these amounts yet include fees from Alan Sege Esq., PC or Venable LLP, which will be provided by supplementation shortly.

(ii) Moreover, if the Court deems appropriate and grants a lodestar increase ONLY to Koley Jessen professionals' hourly rates as recommended and explained in

the Declaration of Greg Scaglione and consistent with the factors set forth in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974), which was recognized by this district in *Morales v. Farmland Foods, Inc.*, 2013 WL 1704722 (D. Neb. Apr. 18, 2013), Infogroup requests an award of lodestar attorney fees relating to the Three Statutory Claims for which Infogroup prevailed, in the amount of \$133,148.85 (\$144,775.25 - \$11,626.40 (non-Three Statutory Claims related)), which are the fair and reasonable Chicago-community based fees for services necessarily rendered on behalf of and for the benefit of Infogroup. Of those fees, \$79,889.31 relates to fees for the copyright claims and related misconduct and \$53,259.54 relates to fees for the Lanham Act violations (trademark infringement and false advertising).

(iii) With the Court's permission, Infogroup will supplement its request and record with the declarations of Alan Sege and Ari Rothman, and Infogroup requests that the Court award Infogroup such other and further relief as this Court deems proper.

Dated this 12th day of September 2018.

INFOGROUP INC., Plaintiff,

By: 
 Gregory C. Scaglione

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that September 12, 2018, the foregoing Corrected Motion for Award of Attorney Fees was filed electronically via the Court's CM/ECF system, which provided electronic notification of its filing to all counsel of record.


Gregory C. Scaglione